950.

SUPREME COURT OF THE UNITED STATES.

No. 155.

FRANK DYNES, PL'FF IN ER.,

vs.

JONAH D. HOOVER.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA, HOLDEN IN AND FOR THE COUNTY OF WASHINGTON.

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Writ of error.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America, to the judges of the circuit court of the District of Columbia, sitting for the county of Washington, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said court, before you, or some of you, between Frank Dynes, plaintiff, and Jonah D. Hoover, defendant, a manifest error hath happened to the great damage of the said plaintiff, as by his complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held; and that the record and proceedings aforesaid, being inspected, the said Supreme Court may cause further to be done therein to correct that error, which of right and according to the laws and customs of the United States should be done.

Witness the Hon. Roger B. Taney, Chief Justice of said Supreme Court.

Issued this 26th day of May, 1856.

JNO. A. SMITH,
Clerk Cir't C't Washg'n Co., D. C.

Citation.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America, to Jonah D. Hoover, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the District of Columbia, for the county of Washington, wherein Frank Dynes is plaintiff in error and you are defendant in error, to shew cause, if any there be, why judgment rendered against the said plaintiff in error should not be corrected, and why speedy justice should not be done to the parties aforesaid in this behalf.

Witness the Hon. James Dunlop, chief judge of the circuit court of the District of Columbia, this 26th day of May, 1856.

JAS. DUNLOP.

Copy of appeal bond.

Know all men by these presents that we, Frank Dynes, James Mandeville Carlisle, and Charles Lee Jones, are held and firmly bound unto Jonah D. Hoover in the full and just sum of two hundred dollars, lawful money, to which payment, well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this twenty-fourth day of May, eighteen hundred and fifty-six.

Whereas at a circuit court of the District of Columbia, sitting for the county of Washington, at March term, 1856, at a suit pending in the said court, wherein the said Frank Dynes was plaintiff and the said Jonah D. Hoover was defendant, judgment was rendered against the said plaintiff; and he having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court to reverse the judgment in the aforesaid suit, and a citation directed to the said Jonah D. Hoover, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday in December next:

Now the condition of the above obligation is such, that if the said Frank Dynes shall prosecute his writ to effect, and answer all damages and costs if he fails to make his plea good, then the above obligation to be null and void, otherwise to be and remain in full force and virtue in law.

FRANK DYNES, [SEAL.]
J. M. CARLISLE, [SEAL.]
CH. LEE JONES, [SEAL.]

Signed, sealed and delivered, in presence of—
ALFRED RIPKA, as to Frank Dynes;
JNO. A. SMITH, as to the two last.

Approved by the court.

Test: JNO. A. SMITH, Clerk.

Style of court.

District of Columbia, to wit:

At a circuit court of the district of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-fourth day of the same month, in the year of our Lord one thousand eight hundred and fifty-six, and of the independence of the United States the eightieth—

Were present, James Dunlop, chief judge; the Hon. James S. Morsell and William M. Merrick, ass't judges; Jonah D. Hoover, esquire, marshal; John A. Smith, clerk.

In the records of the proceedings of the said court, amongst others are the following, to wit:

Parties.

FRANK DYNES
against
JONAH D. HOOVER,

Be it remembered, that heretofore, to wit, at the March term, eighteen hundred and fifty-five, of the said circuit court, appeared the said plaintiff, by Charles Lee Jones, esquire, his attorney, and the said defendant, by Phil. Barton Key, esquire, his attorney, in open court, and by leave of the court consent to docket this case, and thereupon the said defendant, by his said attorney, prays that the said plaintiff may declare against him the said defendant.

Rule nar.

Whereupon it is ruled by the court here, that the said plaintiff declare against the said defendant, or judgment will be rendered against him by default; and the said plaintiff, by his attorney aforesaid, prays leave of the court here to impaile until the third Monday of October next, to declare against the said defendant, and he hath it; the same day is given to the said defendant there and then, &c.

Octo. term, 1855.

At which mentioned third Monday in October, in the year eighteen hundred and fifty-five, to which said day the said plaintiff had leave to impaile, and then to declare against the said defendant, comes as well the said plaintiff as the said defendant, by their attornies aforesaid; and the said plaintiff, by his attorney aforesaid, declares against the said defendant as follows, that is to say:

Nar.

DISTRICT OF COLUMBIA,
County of Washington, Sc.

Jonah D. Hoover, late of said county, the defendant in this suit, was attached to answer unto Frank Dynes, the plaintiff in this suit, in a plea whereof, with force and arms, &c., at the county aforesaid, he, the said defendant, madé an assault on

him the said plaintiff, and then and there beat, bruised, wounded, and ill-treated him, the said plaintiff, and then and there imprisoned him, and kept and detained him in prison for a long time, without any reasonable or probable cause whatsoever, contrary to the laws of the United States, and against the will of him, the said plaintiff, and other wrongs to the said plaintiff then and there did, to the great damage of the said plaintiff, and against the peace, government and dignity of the United States, &c.

And whereupon the said plaintiff, by Charles Lee Jones, his attorney, complains that the said defendant, on the 14th day of October, 1854, at the county aforesaid—with force and arms—that is to say, with staves, sticks, and fists made an assault on him, the said plaintiff, and then and there seized and laid hold of the said plaintiff, and with force and violence pulled and dragged about the said plaintiff, and then and there gave and struck the said plaintiff a great many violent blows and strokes, and then and there forced and compelled the said plaintiff to go into the public street, and then and there forced and compelled the plaintiff to go in and along divers public streets, to a certain prison known as the penitentiary for the District of Columbia, and then and there imprisoned him, and kept and detained him in prison for a long time, that is to say, for the space of six months, to wit: from the 14th day of October, 1854, to the 14th day of April, 1855, and then and there, during all the time aforesaid, caused the said plaintiff to be closely confined, and to be subjected to severe privations and to cruel and ignominious restraints and punishments, and caused him to be treated as a convicted felon, and to be subjected to hard labor in the company of convicted felons, so that he suffered greatly in his body and mind, his imprisonment, without any reasonable cause whatsoever, contrary to the laws of the United States, and against the will of him, the said plaintiff, against the peace, &c., and to the damage of the said plaintiff ten thousand dollars, and therefore he brings suit, &c.

C. LEE JONES,
For pl'ff.

Rule plea.

Thereupon, on motion of the said plaintiff, by his attorney aforesaid, it is ruled by the court here, that the said defendant answer to the declaration aforesaid of the said plaintiff in the plea aforesaid, or judgment by the court here will be rendered against him in default thereof; whereupon the said defendant, by his attorney aforesaid, defends the force and injury, when and so forth, and prays leave of the court here to impaile until the 4th Monday of March next, and then to answer to the declaration aforesaid of the said plaintiff in the plea aforesaid, and to him is granted; the same day is given to the said plaintiff also.

March term, 1856. *Defts. 1st plea.*

And now at this day, to wit, the said fourth Monday of March, in the year eighteen hundred and fifty-six, to which said day the said defendant had leave to impaile, and then to answer to the declaration aforesaid of the said plaintiff in the plea aforesaid, comes again into the circuit conrt here, as well the said plaintiff as the said defendant, by their attorneys aforesaid; and thereupon the said defendant, by his attorney aforesaid, as before, defends the force and injury, when and so forth, and says, that as to the assault and imprisonment as stated, charged, and complained of in the said plaintiff's declaration, the same was by the authority of a sentence of a naval general court martial, convened under the act of Congress, approved April 23d, A. D. 1800, as more fully appears by the record of said court hereto annexed, (copied in page 14,) which said sentence was approved and confirmed by the Secretary of the Navy of the United States, on the 26th of September, in the year 1854. That the said defendant, being the marshal of the U. States for the District of Columbia, was directed by the President of the United States, in a letter addressed to said defendant, dated October 14th, 1854, hereto annexed, (copied in page 29,) to commit the said plaintiff to the penitentiary in the District of Columbia, in accordance with the sentence of the said naval general court martial, which direction defendant, as marshal aforesaid, executed and obeyed; and said defendant is informed and believes, that the said judgment and sentence of the said naval general court martial is absolute and final, and that this court has no jurisdiction of the trespass and illegal imprisonment as charged and complained of in plaintiff's said declaration.

Deft's 2nd plea.

And for a further plea in this behalf as to the battery and the residue of said trespass, as set forth in the plaintiffs said declaration, said defendant pleads not guilty, and of this puts himself upon the country.

Demurrer to 1st plea.

And the said plaintiff, by his attorney aforesaid, as to the first plea hereinbefore pleaded by said defendant, prays oyer of the sentence of the court martial in the said plea mentioned and referred to, and it is read to him in the words following, to wit, (copied in page 14.) And he also prays oyer of the letter of the President of the United States to the defendant, also in the said plea mentioned and referred to, and it is read to him in the words following, to wit, (copied in page 27.) All of which being read and heard, the said plaintiff saith that the same, and the matters therein con-

tained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude him, the said plaintiff, from having or maintaining his aforesaid action thereof against the said defendant, and that he, the said plaintiff, is not bound by law to answer the same, and this he, the said plaintiff, is ready to verify. And the said plaintiff, for causes of demurrer in this behalf, shews and sets down the following, to wit:

1. Because the said court martial had no jurisdiction or authority whatever to pass such sentence as that pleaded and set forth in said plea.

2. Because the said sentence is illegal and void.

3. Because the President of the United States had no jurisdiction or authority whatever to write such letter to the defendant as that pleaded and set forth in said plea, nor in any manner whatever to direct the defendant to commit the plaintiff to the penitentiary in the District of Columbia, in accordance with said sentence.

4. Because the said letter and the said directions therein contained are unconstitutional, illegal, and void.

5. Because the said plea is altogether vicious and insufficient in law, and wants form; wherefore, by reason of the insufficiency of the said plea in this behalf, the said plaintiff prays judgment and his damages by him sustained, on occasion of the committing of the said trespass, to be adjudged to him, &c.

Retraxit to 2d plea.

And as to the second plea by the said defendant above pleaded, by which he traverses the said battery, and the residue of said trespass in said declaration set out and contained, the said plaintiff, by his said attorney, here in open court confesses the same.

Joinder to demurrer on 1st plea.

And the said defendant, by his attorney aforesaid, defends the force and injury when, &c., and says, that the plea first aforesaid, in manner and form aforesaid, by him the said defendant first above pleaded, and the matters in the same contained, are good and sufficient in law to quash the said declaration of the said plaintiff, which said plea, so pleaded, and the matters therein contained, he, the said defendant, is ready to verify and prove, as the said court shall award; and because the said plaintiff hath not answered the said plea, nor hitherto in any manner denied the same, he, the said defendant, as before, prays judgment of the declaration aforesaid, and that the same may be quashed, &c.

Judg't for def't on 1st plea.

Whereupon all and singular the premises being seen, and by the

court here fully understood, it appears to the court here, that the said plea first aforesaid, by the said defendant in form aforesaid pleaded, and the matter in the same contained, are good and sufficient in law to preclude the said plaintiff from having and maintaining his action aforesaid, as to the several alleged trespasses in and by said plea justified against the said defendant.

Retraxit by plff. as to 2nd plea.

And as to the second plea by the said defendant in form aforesaid pleaded, the residue of the said trespasses in the plaintiff's said declaration set forth and contained, the said plaintiff hath, by his attorney aforesaid above, in open court here, confessed and admitted the said plea to be true. Therefore it is considered by the court here, that the said plaintiff take nothing by his writ and declaration aforesaid, but that he be in mercy for his false clamour thereof, and the said defendant go thereof without day, &c. And it is also considered by the court here, that the said defendant recover against the said plaintiff the sum of . dollars and cents, by the court here unto him adjudged for his costs and charges by him about his defence in this behalf laid out and expended, and that he have thereof his execution, and so forth.

Test: JNO. A. SMITH, *Clk.*

Record of naval court martial, referred to in defendant's 1st plea, page 10.

Charge and specification of a charge, preferred by the Secretary of the Navy, against Frank Dynes, a seaman in the navy of the United States.

Charge: Desertion.

Specification: In this, that on or about the twelfth day of September, in the year one thousand eight hundred and fifty-four, the said Frank Dynes deserted from the United States ship Independence, at New York.

J. C. DOBBIN,
Secretary of the Navy.

NAVY DEPARTMENT, *September* 18, 1854.

UNITED STATES SHIP NORTH CAROLINA,
New York, 10½ *o'clock*, *Saturday*, *September* 23*rd*, 1854.

The court met pursuant to adjournment. Present,

Commander	Wm. L. Hudson,	U. S. N.	Members.
"	H. H. Bell,	"	
Lieutenant	James H. Rowan,	"	
"	John C. Carter,	"	
"	Dominick Lynch,	"	
"	Geo. Colvocoussis,	"	
"	Wm. H. McComb,	"	

and purser B. J. Cahoone, judge advocate. (See order promoting Lt. Bell appended to this record.)

Frank Dynes, a seaman of the navy of the United States, attached to the United States ship Independence, charged with desertion, was called into court.

The judge advocate read the precept convening the court, as follows:

To commander Wm. L. Hudson, U. S. Navy, New York:

By virtue of the authority contained in the act of Congress, approved the 23d of April, A. D. 1800, for the better government of the navy of the United States, a naval general court martial is hereby ordered to convene on board the U. S. receiving ship North Carolina, at New York, on Wednesday, the twentieth of September, A. D. 1854, or as soon thereafter as practicable, for the trial of John McNanny, seaman, and of such other persons as may be legally brought before it.

The court is to be composed of the following named officers, any five of whom are empowered to act, viz:

Commander	Wm. L. Hudson.	Members.
Lieutenant	Henry H. Bell,	
"	James H. Rowan,	
"	John C. Carter,	
"	Dominick Lynch,	
"	Geo. Colvocoussis,	
"	Wm. H. McComb,	

and Purser B. J. Cahoone, judge advocate.

J. C. DOBBIN,
Sec'y of the Navy.

NAVY DEPARTMENT,
Sep. 18*th*, 1854.

The accused was asked if he had any objections to any members named therein, to which he replied, he had not.

The court was then duly sworn by the judge advocate, and the judge advocate was duly sworn by the presiding officer of the court, in presence of the accused.

The accused was asked if he wished for counsel to assist, in his defence, and he replied he did not, but would defend himself.

The charge was read aloud by the judge advocate.

The judge advocate, addressing the accused: Frank Dynes, seaman, you have heard the charges preferred against you. How say you, guilty or not guilty?

To which the accused, Frank Dynes, pleaded as follows:

Not guilty.

Lieutenant Albert N. Smith, of the U. S. Navy, was called on the part of the prosecution, and being duly sworn, was qnestioned as follows, by the judge advocate:

Please state what you know in relation to the charge of desertion preferred against Frank Dynes, a seamen of the navy, which you have heard read.

Answer. I know nothing about the charge or the specification. I do not recognize the man.

There being no further questions to this witness, he retired; and Charles Bryant, quartermaster, attached to the U. S. ship Independence, was called on the part of the prosecution, and being duly sworn, was questioned as follows, by the judge advocate:

State what you know in relation to the charge and specification of desertion preferred against Frank Dynes, seaman, which you have heard read.

Answer. All that I can say about that man is, I saw him overboard, swimming towards the ship. I was standing on the poop-deck on board the Independence; the time was about sunset. I do not know the day of the month.

Question by the judge advocate: Were you on duty at the time, and how was your attention called to the man you saw overboard?

Answer. I was not on duty at the time the alarm was given by the officer of the deck, calling "a man overboard." I then went up on the poop-deck and assisted in lowering the barge.

Question by the court: Who was officer of the deck at that time?

Answer. Lieutenant Mooney, I believe, was his name.

By the court: Do you or not know how the accused got overboard?

Answer. I do not know.

By the court: Was the accused swimming towards the side of the ship, or towards the shore-boat under the quarter?

Answer. Towards the side of the ship.

By the court: Did the accused hail a shore-boat while in the water?

Answer. No, sir.

By the court: Was the accused forward of the gangway or abaft it while swimming toward the ship?

Answer. A little forward of it.

By the court: Was there a boat-keeper in the whaleboat at the booms?

Answer. I do not know.

By the court: Did the shore-boat pull towards the accused?

Answer. No, sir.

By the court: Was there a shore-boat under your stern or quarter?

Answer. There was—astern of the ship, a little on the quarter.

By the court: Was there any person in the shore-boat?

Answer. One man.

By the court: D'you see any other men overboard with the accused?

Answer. One other man.

By the court: Did the man whom you saw overboard with the accused return to the ship, or did he escape?

Answer. He was picked up by the shore-boat astern, and put into the barge a little distance from the ship.

By the court: How was the accused taken out of the water?

Answer. I do not know.

There being no further questions for this witness, and the accused not desiring to cross-examine him, the testimony was read over, and being found correct, the witness retired; and John Gardner, quartermaster of the U. S. Navy, attached to the Independence, was called on the part of the prosecution, and being duly sworn, was questioned as follows:

By the judge advocate: State what you know in relation to the charge and specification against Frank Dynes, seaman, for desertion, which you have heard read?

Answer. As the hammocks were piped down on board the Independence, near sunset, on or about the fourteenth instant, I was standing on the hammock netting; I was giving out the hammocks; when I saw the two men overboard, I left the hammocks and ran aft, and called out to the shore-boat to pick the men up. I believe the accused was the man picked up by the shore-boat.

Question by the court: Did you or did you not see the accused until he was in the water?

Answer. No, sir. I was the first man who called out he was drowning.

By the court: How far was the accused from the ship, and what was he doing?

Answer. About two boats' lengths from the ship: he was swimming for his life.

By the court: Was the accused before or abaft the gangway when in the water?

Answer. He was at first forward the gangway, and was carried by the tide abaft the gangway.

By the court: Do you know where the accused got overboard from the ship?

Answer. No, sir.

By the court: Are you sure it was the accused who was picked up by the shore-boat, or was it the other man whom you saw in the water at the same time?

Answer. I cannot be certain which of the men was picked up by the shore-boat.

There being no further questions for this witness, and the accused not wishing to cross-examine him, his testimony was read over to him, and being pronounced correct, the witness retired; and George Harpur, quartermaster U. S. Navy, attached to the U. S. ship Independence, was called on the part of the prosecution, and,

being duly sworn, the charge and specification preferred against Frank Dynes was read to the witness, and he was questioned as follows by the judge advocate:

State what you know in relation to the charge and specification against Frank Dynes of desertion, which you have heard read.

About twelve or fourteen days ago, on board the U. S. ship Independence, I was in the nettings, giving out hammocks, near sun-down. I heard a cry of "Man overboard," and looking over the side I saw a man drifting astern; he was picked up by the barge. That was all I saw.

Question by the court: Did you see the accused in the water, and did you see him see him picked up by the barge?

Answer. I saw a man picked up by the barge. I do not know if it was the accused.

By the court: Did or did not recognize the accused as being overboard at the time?

Answer. I do not recognize him as one of the men who was in the water.

By the court: How many men did you see at that time overboard in the water?

Answer. Two.

By the court: What were they doing?

Answer. Trying to swim toward the ship.

By the court: How did they get overboard?

Answer. I do not know.

By the court: Who was in shore-boat astern of the ship.

Answer. I do not know.

By the court: Was there a ship's boat at the swinging boom?

Answer. I believe not.

By the court: On what side of the ship were the men who were in the water?

Answer. The starboard side.

By the court: Were they before or abaft the gangway?

Answer. About abreast the gangway.

There being no further questions, and the accused not wishing to cross-examine him, his testimony was read over, and being found correct, the witness retired; and James Hall, quarter gunner, was called on the part of the prosecution, and being duly sworn, the charge and specification against Frank Dynes was read to him, and he was questioned as follows by the judge advocate:

State what you know in relation to the charge you have heard read.

I do not know anything about his desertion. I saw him overboard from the ship, and saw him picked up, about a fortnight since; the time was between five and six o'clock, p. m. I was standing at the second gun-port on the starboard side, leaning on on the back of the gun, looking through the port. I saw a rush of men from the fore chains to the swinging boom. There was a ship's boat lying at the swinging boom with six men in her at the time.

Four men fell from the swinging boom into the water; the others, I cannot say how many, returned on board. I recognized the accused as one of the men who fell from the swinging boom.

By the court: Was or was not the accused one of the men who rushed out on the swinging boom at the time of piping down the hammocks?

Answer. He was.

By the court: Was there a boat lying at the swinging boom at that time?

Answer. Yes, sir.

By the court: Was the accused one of the men who fell overboard at the time from the swinging boom?

Answer. He was.

By the court: Had a boat been called away when the men went out on the boom?

Answer. No, sir, not to my knowledge.

By the court: What became of the boat at the swinging boom?

Answer. Pulled away to South Brooklyn.

By the court: How many men went off in her?

Answer. Six, when the men left the boom, and one succeeded in getting in from the water.

By the court: Did the men run away with her from the ship; was there an officer in the boat?

Answer. Yes, sir, the men run away with the boat; there was no officer in the boat.

Question by the defence: How many men can go out upon the swinging boom?

Answer. Twenty good sailors can go at one time; one bad one could not go by himself.

By the defence: How far from the fore chains was the accused when he fell overboard?

Answer. I should say fifteen feet, to the best of my knowledge.

By the defence: How many men had gone before the accused from the swinging boom into the boat, before the accused fell overboard?

Answer. I saw six men in the boat; I don't know how they went into the boat, whether from the gangway, or the swinging boom.

By the defence: Who was officer of the deck at the time?

Answer. I believe Lieut. Smith was officer of the deck at the time; I am not certain.

There being no other questions for this witness, his testimony was read over, and being found correct, he retired; and the judge advocate informed the court there was no further testimony to call on the part of the prosecution; the accused was asked if he had any witness to call on his part; he replied he had not, nor had he any defence to make. The court was cleared for deliberation, and being opened adjourned to meet again on Monday, September 25th, at 10½ o'clock, a. m.

UNITED STATES SHIP NORTH CAROLINA,
New York, 10½ *o'clock*, *Monday*, *Sept'r* 25*th*, 1854.

The court met pursuant to adjournment. Present,

Commander Wm. L. Hudson,
" C. H. Bell,
Lieut. James H. Rowan,
" John C. Carter,
" Dominick Lynch,
" Geo. Colvocossis,
" Wm. H. McComb,
} Members.

Purser B. J. Cahoone, judge advocate.

Frank Dynes, the accused, also present.

The proceedings of Saturday were read over.

The statements of the parties being in the possession of the court, the court was cleared for deliberation; and having maturely considered the evidence adduced, do find the accused Frank Dynes, seaman of the U. S. navy, as follows: of the specification of the charge, guilty of attempting to desert; of the charge not guilty of deserting, but guilty of attempting to desert; and the court do thereupon sentence the said Frank Dynes, seaman of the navy of the U. States, to be confined in the penitentiary of the district of Columbia, at hard labor, without pay, for the term of six months from the date of the approval of this sentence, and not to be again enlisted in the naval service. This sentence to be read on board of all vessels of the U. S. navy in commission.

W. L. HUDSON,
Comdr. and senior officer of the Court.
H. H. BELL, *Commander.*
J. H. ROWAN, *Lieut.*
DOMINICK LYNCH, "
GEORGE W. COLVOCOSSIS, "
JOHN C. CARTER, "
W. H. McCOMB, "
Purser J. CAHOONE, *Judge Advocate.*

The court was opened and adjourned to meet again to-morrow, Tuesday, Sep. 20th, 10½ o'clock.

NAAY DEPARTMENT, *September* 26, 1854.

Approved.

J. C. DOBBIN.

Letter from the President of the United States, to the marshal of the district of Columbia, referred to in defendant's plea, page .

WASHINGTON, *October* 14*th*, 1854.

SIR: At a naval general court martial recently convened, by order of the Secr. of the Navy, on board the U. S. receiving ship

North Carolina, at New York, John McNenny and Franklin Dynes, seamen, and David Hazard, an ordinary seaman of the navy of the United States, were tried upon certain charges preferred against them by the Secretary of the Navy, and respectively sentenced by the court, as follows:

John McNenny, seaman, "to be confined at hard labor, without pay, in the penitentiary in the district of Columbia, until the 30th day of April, 1857, being the remaining period of his enlistment. This sentence to be read on board of all vessels of the U. S. navy in commission."

Frank Dynes, seamen, "to be confined in the penitentiary of the district of Columbia, at hard labor, without pay, for the term of six months, from the date of the approval of the sentence. This sentence to be read on board of all vessels of the U. S. navy in commission."

The sentences in the cases of John McNenny and Frank Dynes have been approved by the Sec. of the Navy, and will be carried into execution.

David Hazard, ordinary seaman, was sentenced by the court "to be confined in the penitentiary of the district of Columbia, at hard labor, without pay, during the period of his natural life." This sentence to be read on board of all vessels of the U. S. navy in commission.

The proceedings of the court in the case of David Hazard having been submitted to me for revision, I have approved the sentence, excepting so much thereof as adjudges him "to be confined in the penitentiary in the District of Columbia, at hard labor, without pay, during the period of his natural life," which I have mitigated to confinement in the said penitentiary, at hard labor, without pay, until the expiration of the term for which the said Hazard was enlisted. With this mitigation, the sentence will be carried into execution.

The prisoners above named, having been brought to this city by direction of the Sec. of the Navy, in the U. S. steamer Engineer, you are hereby directed to receive them from the commanding officer of the said vessel, and commit them to the penitentiary in the district of Columbia, in accordance with their respective sentences.

FRANKLIN PIERCE.

JONAH D. HOOVER, esqr.,
Marshal for the District of Columbia.

And whereas, afterwards, to wit, on the twenty-sixth day of May, eighteen hundred and fifty-six, the said plaintiff, by his attorney aforesaid, produced and filed in court here the United States writ for the correcting of errors, of and upon the judgment aforesaid, directed to the judges of the circuit court of the district of Columbia, commanding that the record and proceedings aforesaid, with

all things thereunto relating, be transmitted to the Supreme Court of the United States, to be holden at the city of Washington on the first Monday in December next; and in pursuance thereof, and in accordance with the form and effect of the law in such case made and provided, a transcript of the record of proceedings aforesaid, and all things thereunto relating, with the writ of error aforesaid, and a copy of the appeal bond hereto annexed, is hereby transmitted to the Supreme Court accordingly.

In testimony whereof, I have hereunto subscribed my [SEAL.] name, and affixed the seal of said court, this 28th day of May, 1856.

JNO. A. SMITH,
Cl'k.